

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

PLAINVILLE GENERATING CO., LLC,)
)
Plaintiff,)
)
vs.)
)
DTE BIOMASS ENERGY, INC. and)
PLAINVILLE GAS PRODUCERS, INC.,)
)
Defendants.)

Case No. 05-11210-GAO

MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

Defendants, DTE Biomass Energy, Inc. (“DTE Biomass”) and Plainville Gas Producers, Inc. (“Plainville Gas”), hereby move the Court pursuant to Fed. R. Civ. P. 12(b)(1) to dismiss this action for lack of subject matter jurisdiction, in that there was not complete diversity of citizenship between Plaintiff, Plainville Generating Co., LLC (“Plainville Generating”), on the one hand, and Defendants DTE Biomass and Plainville Gas on the other at the time this action was commenced, because at that time both Plainville Generating and Plainville Gas were citizens of the Commonwealth of Massachusetts for purposes of determining whether or not diversity jurisdiction lay with this Court, all as more fully discussed in the memorandum of law supporting this motion and filed herewith.

LOCAL RULE 7.1(A)(2) CERTIFICATION

The undersigned counsel for Defendants hereby certify that they have conferred with Plaintiff's counsel in good faith to resolve or narrow the issue herein.

Date: October 19, 2005

Respectfully submitted,

/s/ W.C. Blanton

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Pro hac vice appearances

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CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2005, I served a copy of the foregoing pleading upon all parties hereto electronically, via facsimile or by mailing copies thereof, via first class mail, postage prepaid, properly addressed to:

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